

August 1, 2005

ORGANIZATION: Nuclear Energy Institute (NEI)

SUBJECT: SUMMARY OF MARCH 3-4, 2005, MEETING WITH NEI TO DISCUSS  
NEI 04-01, REVISION D, "DRAFT INDUSTRY GUIDELINE FOR  
COMBINED LICENSE (COL) APPLICANTS UNDER 10 CFR PART 52,"  
AND THE OPERATIONAL PROGRAM REVIEW PERFORMED DURING  
THE EVALUATION OF A COL APPLICATION

On March 3-4, 2005, the U.S. Nuclear Regulatory Commission (NRC) held a public meeting with NEI at NRC headquarters in Rockville, MD. The purpose of the meeting was to discuss specific sections of NEI 04-01, Revision D. In addition, the staff provided NEI with initial thoughts on the review of radiation protection, security, assess authorization, and fitness-for-duty operational programs in a COL application. The staff and NEI also had followup discussions on inservice testing and inspection and fire protection operational programs from the February 2, 2005, NEI public meeting. The meeting attendees are listed in Attachment 1 and the meeting agenda is given in Attachment 2.

Several handouts were distributed during this meeting. They are listed at the end of this memorandum with their accession numbers. All the handouts can be accessed through the Agencywide Documents Access and Management System (ADAMS) by accession number. This system provides text and image files of NRC's public documents. If you do not have access to ADAMS or if you have problems in accessing the handouts in ADAMS, call the NRC Public Document Room (PDR) reference staff at 1-800-397-4209 or 301-415-4737 or e-mail [pdr@nrc.gov](mailto:pdr@nrc.gov).

### **NEI 04-01 DISCUSSIONS**

Below is a summary of the topics covered in the meeting in the order they appear in the agenda. Several action items were identified and are summarized at the end of this summary. Note that section numbers refer to NEI 04-01 unless otherwise stated.

#### **Early Site Permit (ESP) - COL Interface Issues**

##### **Background**

Predating the submittal of NEI-04-01, NEI and industry representatives held numerous discussions with the NRC staff regarding the COL applicant's environmental report and the NRC's environmental review in the context of a referenced early site permit (ESP). This topic is the ESP-COL interface issue. During the last of a series of discussions, the January 18, 2005, meeting with NEI, the industry representatives indicated that the NRC could limit its COL review to an environmental assessment (EA) rather than an environmental impact statement (EIS) and still comply with the intent of the National Environmental Policy Act. The NRC's position at the January 18, 2005, meeting was that issuance of the COL is a major Federal action and that it requires an EIS; the staff indicated its intent to incorporate by reference the findings of other environmental reviews, but that the product would be an EIS. The NRC suggested that NEI provide its rationale; NEI's position was contained in its letter dated February 10, 2005. In the

letter, NEI disagreed with the staff. The letter was the focus of the discussion at the March 3, 2005, meeting and not the allied sections of NEI 04-01.

### Meeting Summary

After giving serious consideration to the NEI position and its rationale, the NRC said that (1) the NRC regulations require an EIS for a major Federal action and enumerates certain types of actions that the Commission previously determined require an EIS; (2) the issuance of an ESP and the issuance of a COL are separate Federal actions; (3) the issuance of a COL is a major Federal action and an EIS will be prepared; (4) COL applicants must meet regulatory requirements at the time of its application; (5) the NRC's EIS must address environmental issues not considered in a previous proceeding, including issues deferred at the ESP stage and newly identified issues; (6) the environmental information submitted by the applicant should contain sufficient information to aid the Commission in its development of an independent analysis; (7) for issues that were resolved at the ESP stage, the COL applicant must determine whether there is new and significant information; (8) should the applicant be aware of new and significant information, then the NRC expects such information to be included in the application; (9) the NRC will independently evaluate and be responsible for the reliability of all information used in the EIS; (10) the COL application must contain information sufficient to demonstrate that the design of the facility falls within the parameters specified in the ESP and, if the COL site characteristics are not bounded by the ESP site characteristics, then the staff must analyze the associated impact based on the current characteristics; and (11) if no new and significant information is identified and the COL site characteristics, based on current data, remain bounded by corresponding ESP site characteristics, then the COL EIS will tier from the ESP EIS and no further analysis is needed. If the information is considered significant, then the evaluation at the ESP stage is not revisited; rather, the only issue is whether consideration of the new information changes the result obtained at the ESP stage.

After further discussion, NEI said that they did not think that the NRC and NEI were far apart on this issue. The NRC reiterated that the position posited by NEI in its February 10, 2005, letter (i.e., that an EA for a COL referencing an ESP is sufficient) is not correct. The staff highlighted the fundamental difference between the EA process (an EA can be issued without public comment) and the EIS process (it provides for the fullest of public participation in the scoping process and affords the public the opportunity to comment on the NRC's draft EIS).

In response to a question, the NRC expanded on the industry's proposal that the COL conclusion regarding impacts for an issue (e.g., SMALL, MODERATE, or LARGE) remaining consistent with the ESP EIS conclusion (for example, a SMALL remains a SMALL) would dictate whether or not an issue could be revisited at the COL stage. The NRC said that the COL applicant must demonstrate that the reactor design ultimately selected falls within the parameters and characteristics specified in the ESP. The example provided by the NRC for this discussion related to the accident analysis at the exclusion area boundary. Compliance with the NRC siting rules is a requirement and compliance results in a SMALL impact conclusion. However, there are numerous plant parameters and site characteristics that are incorporated into the analysis, including source term, building characteristics, atmospheric dilution, distance

to the exclusion area, etc. The ESP conclusion would have been based on the parameters and characteristics in the ESP and the COL applicant must demonstrate that the design is bounded

by those parameters and characteristics specified in the ESP.

Both the NRC and NEI noted that there were different definitions of COL actions identified in various documents (e.g., COL action items in an NRC final safety evaluation report; COL information items in the AP1000 design control document; and COL action requirements in NEI 04-01). NEI took an action to clarify the use of these terms in NEI 04-01.

The NRC staff said that it intends to respond to the February 10, 2005, NEI letter. Thereafter, the issue will be discussed at the next scheduled NEI public meeting on NEI 04-01. NEI staff stated that they would wait for the NRC to respond to the letter.

[The information provided in this meeting summary is for the purpose of documenting the meeting. Subsequent to this meeting, in a letter dated July 6, 2005 (ADAMS Accession No. ML051050031), the staff issued its response to NEI's February 10, 2005, letter. Please refer to this response letter for the staff's guidance on the environmental review at the COL stage of nuclear plant licensing. This letter provides the NRC position regarding the environmental review at the COL stage of nuclear plant licensing.]

#### General Final Safety Analysis Report (FSAR) Topics (Sections 4.3.1 - 4.3.9)

The NRC said that the hyperlinked structure of an FSAR as described in NEI 04-01 is different than the staff envisioned. NEI said that they are trying to take advantage of the inherent efficiencies of electronic documents and also want to make a clear distinction between the information previously reviewed and approved in an ESP and a design certification with the information needed to be reviewed in a COL application. The NRC also questioned what a hyperlinked FSAR submittal would look like in ADAMS. The NRC suggested that NEI review the published guidance on electronic submission of documents. The NRC will also discuss this internally and take this subject up at a future NEI 04-01 public meeting.

The NRC said that it appears that NEI 04-01 treats compliance with Tier 1 and Tier 2 design control document interface requirements differently. The NRC believes that compliance with these requirements are the same. NEI said that they would review this issue and discuss it at the next NEI 04-01 public meeting.

The NRC said that NEI 04-01 identifies probabilistic risk assessment information as sensitive. The NRC said that PRA information, as a category, need not be withheld.

#### Technical Specifications (Section 4.3.9.16)

The NRC said that while the design certifications that the NRC has reviewed contained Tier 1, Tier 2, and operational requirements, the NRC did not fully review the operational requirements. The change process, which is included in Section VIII, "Processes for Changes and Departures," of each of the three design certification rules, is based on this fact.

NEI said that they expect that COL applicants will submit many technical specification (TS) changes as part of a COL application. NEI also said that they wanted to discuss the change process included in the design certification rules. Specifically, NEI asked if an exemption was required to replace the bracket information in the TSs. The NRC said that replacing bracketed information is the same as providing other site-specific information and an exemption was not required. In addition, an exemption is not needed for bases changes. NEI said that the COL application will include a complete set of TSs with all the brackets filled in. However, modifying the information outside the brackets that would be a change under Section VIII.C of the design certification rules.

After further discussion, the NRC said that the review of the TSs in the design certification provided some level of finality, albeit not as much as in Tier 1 or Tier 2. However, it appears to the NRC that NEI is advocating a process in which TSs have no finality in design certifications. NEI said that they would prefer the design certification TSs to be more like the current plant standard TSs. NRC said that the design certification TSs were in fact standard TSs. The NRC concluded this discussion by stating that if NEI has any comments on the change process, they should provide comments when the AP1000 design certification rule is issued for public comment. The TS change process will be discussed further at the next NEI 04-01 public meeting.

#### Emergency Planning

The NRC said that it would send NEI a letter concerning the decrease in effectiveness issue. After the letter is issued, the NRC will discuss the contents of the letter in a public meeting.

#### Site-Specific Design ITAAC (Section 4.3.9.14.3.2)

NEI said that after considering the comments made by the NRC concerning site-specific ITAAC in the February public meeting, NEI agrees that the discussion in Section 4.3.9.14.3.2 is incorrect. NEI agreed that the ITAACs are not limited to the ITAAC tables but include all the information included in Tier 1 and that all ITAAC have to be addressed. However, only the systems that are screened to require a test should be included in the tables. NEI said that all the important tests have been captured in the ITAAC tables for design certification. The COL applicant will have to perform this screen for the remainder of the facility. NEI said that they would modify the language in Section 4.3.9.14.3.2 to be consistent with this discussion.

NEI said that the determination of the interface requirements should be sufficient to determine the site-specific ITAAC. The NRC said that it did not agree with this statement but would consider the issue further.

## **FOLLOWUP AND NEW OPERATIONAL PROGRAM DISCUSSIONS**

NEI provided their perspective on the COL operational program review that the NRC is currently performing in response to SRM-SECY-04-0032, "Staff Requirements - SECY-04-0032 - Programmatic Information Needed for Approval of a Combined License Without Inspections, Tests, Analyses, and Acceptance Criteria." NEI said that operational programs were previously described in safety analysis reports (SARs), and NEI expected that to continue. The bulk of the operational programs would not be developed or implemented until after the COL is issued. Individual programs would be described in the SARs with a level of detail necessary for the NRC staff to arrive at a reasonable assurance finding. NEI said that they did not want an applicant to use an "old" SAR and copy it into a COL application.

NEI discussed several of the 14 operational programs referenced in their May 14, 2001, letter to the NRC. NEI said that emergency planning will have ITAAC. Three operational programs, security, access authorization, and fitness for duty, will be discussed in the context of the overall security program. Regarding reportability, NEI said that they do not believe this is an operational program; and, therefore, does not belong on a list of programs that are being considered for ITAAC. NEI said that the maintenance rule operational program would be a component of the reliability assurance program.

After additional discussion, both the NRC and NEI said that the implementation timing of each operational program was important to determine when and how the review would be performed. NEI said that they would provide information on the implementation of several operational programs at the next NEI 04-01 public meeting.

NEI said that RG 1.70, "Standard Format and Content of Safety Analysis Reports for Nuclear Power Plants," identifies several additional operational programs beyond the 14 programs identified in NEI's letter dated May 14, 2001. NEI said that these programs will be described in the FSAR consistent with past practice.

### **Followup on Fire Protection (Section 4.3.9.9)**

NEI presented an example of what FSAR Section 9.5.1, "Fire Protection," would look like in a COL application. This example is the same provided by NEI to the NRC during the development of SECY-04-0032, with the addition of the AP1000 COL action items. NEI proposed that a hypothetical COL applicant would be expected to submit fire protection system and program descriptions referenced in the Westinghouse AP1000 Design Control Document (DCD), Revision 14, with plant specific information. The NRC agrees with the NEI proposed information available to the NRC to support review of a COL application. The NRC said that, NEI-04-01, Table 4.3.9.9.3-2, is vague in its discussion of implementation of fire protection program (e.g., pre-fuel load). The NRC asked when (e.g., 6 months prior to fuel arrival on site) the COL applicant will notify the Commission of the date that the fire protection program is fully implemented and is available for inspection. NEI agreed to address this item and will propose a fire protection program implementation schedule in the April 2005, public meeting. The NRC did not identify any other major concerns.

#### Followup on Inservice Inspection and Testing

NEI presented a proposed timeline for the preservice inspection/in-service inspection code selection and program submittal during the review of COL application and after the issuance of the license. Both the NRC and NEI discussed the timeline. The NRC said that the code of record is tied to the issuance of a operating license in 10 CFR 50.55a. The NRC also said that the text and the figure were not consistent. The NRC said it wanted to see the program some period of time before fuel load and asked why the in-service inspection and in-service testing programs could not be provided 6 months before fuel load. Further discussion is needed between the NRC and NEI to reach agreement on the timing of implementation. NEI said that they will try to describe what information will be ready and when.

NEI said that there appeared to be some confusion between the definition of a program and a plan and requested that NRC consider the differences and discuss this at a future NEI 04-01 public meeting.

#### Radiation Protection (Section 4.3.9.12)

The NRC said that they are working on a revision to SRP Section 12.5, "Operational Radiation Protection Program." The NRC said that the information currently in NEI 04-01, Section 4.3.9.12.2 was not adequate to evaluate the radiation protection program in a COL application. NEI said that the example in Section 4.3.9.12.2 was extracted from operational program information from FSARs of the most recently licensed plants.

The NRC proposed conducting several separate public meetings with members of the NEI radiation protection task force to discuss the level of detail needed to review a radiation protection program in a COL application. In addition, implementation of the radiation protection program will be discussed. NEI agreed to this proposal. Both the NRC and NEI participants in these meetings will discuss the results of these meetings at a future NEI 04-01 public meeting.

[Note: the first of these meetings took place on March 14, 2005. A subsequent meeting has been noticed for April 7, 2005.]

#### Security Plan, Access Authorization, and Fitness-for-Duty (Section 4.3.9.13)

The NRC said that it is considering ITAAC for site-specific security design hardware. NEI agreed that there would be additional ITAAC for this hardware. It was noted during the meeting that SRP Section 14.3, "Tier 1 Information," does not include any security criteria, although Tier 1 of the AP1000 design control document does include ITAACs associated with security design features as they relate to the AP1000 design certification. NEI said that they will discuss internally how to develop security design hardware ITAAC. NEI said they expect to form a separate task force to address this issue.

## **ACTION ITEMS**

### **NEI**

- Review terminology for COL items in the document (i.e., COL action item vs. COL information item vs. COL action requirements).
- Review guidance for submittal of electronic documents and discuss potential issues associated with submittal of hyperlinked FSARs.
- Review issues associated with the discussion of Tier 1/Tier 2 interface requirements in the document and present at the April public meeting.
- Review implementation of operational programs identified in NEI letter dated May 14, 2001, and discuss implementation of as many programs as possible for the April public meeting.
- Form a NEI task force to look at ITAAC for security design features (i.e., hardware).

### **NRC**

- Internally discuss COL applicant submission of hyperlinked FSAR.
- Respond to NEI letter dated February 10, 2005, concerning ESP finality and discuss letter at subsequent NEI public meeting.
- Internally discuss emergency planning issues associated with complete and integrated plan.
- Review whether interface requirements fully define site-specific ITAAC.
- Review technical specification issues associated with paragraph VIII.C of the 10 CFR Part 52 design certification rules.
- Hold separate public meetings with NEI concerning the radiation protection operational program to discuss the information in NEI 04-01, Section 4.3.9.12, in greater detail.
- Review NEI's proposed ISI/IST implementation strategy and the definitions of ISI/IST program vs. plan.

## **PUBLIC COMMENTS**

A member of the public stated that he was "glad to see staff efforts to protect the public's rights." This individual also expressed concern with the industry's apparent treatment of severe accident management design alternatives and also said that one method to achieve finality at the ESP phase was to reference a specific plant design.

## **NEXT PUBLIC MEETING**

The next public meeting is tentatively scheduled for the early April 2005. Topics that are tentatively scheduled for discussion include instrumentation and controls, quality assurance, maintenance rule, the reliability assurance program, and the implementation of operational programs. Potential followup discussions include site-specific design ITAAC and ISI/IST implementation. NEI also requested that the NRC schedule discussions on the finality of the ESP reviews, emergency planning, the probabilistic risk assessment and severe accidents. The NRC said that it would finalize the schedule for the April meeting with NEI and issue a meeting notice in the middle of March.

***/RA/***

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Project No. 689

- Attachments:
1. List of attendees
  2. Agenda
  3. NRC Slides from March 3-4, 2005, NEI Public Meeting on NEI 04-01 (ML050670529)
  4. NEI Slides on Plant-Specific Technical Specifications Discussed in NEI 04-01 (ML050670525)
  5. NEI Handouts and Technical Specification Topics on NEI 04-01 (ML050670502)
  6. NRC Handout Regarding Comments on NEI 04-01, Section 4.3.9.16, Technical Specifications (ML050670500)
  7. NEI Slides on NEI 04-01, Section 4.3.9.14, Site-Specific Design Information and ITAAC (ML050670499)
  8. NEI Slides on Operational Programs and NEI 04-01 (ML 050670494)
  9. NEI Handout Regarding FSAR Section 9.5.1 Fire Protection Example (AP1000) Related to NEI 04-01 (ML050670458)

cc w/o atts: See next page

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6. NRC Handout Regarding Comments on NEI 04-01, Section 4.3.9.16, Technical Specifications (ML050670500)  
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cc w/o atts: See next page

\*See previous concurrence

ADAMS ACCESSION NUMBER:ML050680010-Package

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**NRC Meeting with Nuclear Energy Institute-Major Regulatory Milestones  
Associated with New Reactor Licensing  
Thursday, March 3, 2005  
Friday, March 4, 2005  
9:00 a.m. to 4:00 p.m.  
NRC Headquarters Conference Room 0-12B4**

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Carl Berger	Energetics
Ronald Young<	NRR/DSSA/SPLB
Roger Pedersen	NRR/DRIP
Robert Weisman	OGC/RP
Jim Winters	Westinghouse
Don Hutchings	Westinghouse
Yuichi Hayashi	AP1000 Westinghouse
N. Trehan	NRR/DE/EEIB
T. Boyce<	NRR/DIPM/IROB/TSS
C. Schulten<	NRR/DIPM/IROB/TSS
Alex Klein	NRR/DSSA/SPLB
Naeem Iqbal	NRR/DSSA/SPLB
Stephen Klementowicz	NRR/DIPM/IPSB
Ralph Andersen	NEI
Mike Schoppman*	Framatome ANP
Dave Terao	NRR/DE
Dave Fischer	NRR/DE
Ted Sullivan	NRR/DE
Charlie Hinson	NRR/DIPM
<= Attended both First and Second Day *= Attended Second Day only	

## Agenda

March 3, 2005, Meeting with the Nuclear Energy Institute (NEI) to Discuss NEI's Combined License (COL) Application Guidance and the Operational Program Review Performed During the Evaluation of a Combined License Application

9:00 a.m.	Introductions/Opening Remarks	NRC/NEI
9:10 a.m.	Discussion of Early Site Permit (ESP)-COL Interface Issues	NRC/NEI
9:45 a.m.	Discussion of NEI 04-01, Sections 4.3.1 - 4.3.9, "General Final Safety Analysis Report (FSAR) Topics" and Section 4.3.9.1, "FSAR Chapter 1"	NRC/NEI
10:30 a.m.	Break	
10:45 a.m.	Discussion of NEI 04-01, Section 4.3.9.16, "Technical Specifications"	NRC/NEI
11:15 a.m.	Discussion of NEI 04-01, Section 6.4.3, "Changes in Approved Emergency Planning Information"	NRC/NEI
11:30 a.m.	Discussion of Site-Specific Inspections, Tests, Analyses, and Acceptance Criteria: Switchyard Example	NRC/NEI
11:50 a.m.	Public Comments	
12:00 p.m.	Lunch	
1:00 p.m.	NEI's Perspective on Operational Programs Identified in May 14, 2001, NEI Letter to NRC	NEI
1:30 p.m.	Followup Discussions on Fire Protection and Inservice Testing and Inspection Operational Program Reviews	NEI/NRC
2:30 p.m.	Break	
2:45 p.m.	New Operational Program Review Examples	NRC/NEI
3:50 p.m.	Public Comments	
4:00 p.m.	Adjourn	

**NOTE: Specific topics and associated discussion times may change without notice**

**Contact:**

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## Agenda

March 4, 2005, Meeting with the Nuclear Energy Institute (NEI) to Discuss NEI's Combined License (COL) Application Guidance and the Operational Program Review Performed During the Evaluation of a Combined License Application

9:00 a.m.	Summary of March 3, 2005, Agenda Item Discussions	NRC
9:15 a.m.	Followup Discussions From March 3, 2005, Agenda Items	NEI/NRC
10:30 a.m.	Break	
10:45 a.m.	Followup Discussions (Continued)	NEI/NRC
11:30 a.m.	Discussion of Future Meetings Concerning NEI 04-01 and Operational Program Review Topics	NEI/NRC
11:40 a.m.	Discussion of Clarifications from Previously Issued NRC Public Meeting Summaries Concerning NEI-04-01 (if any)	NEI/NRC
11:50 a.m.	Public Comments	
12:00 p.m.	Adjourn	

**NOTE: Specific topics and associated discussion times may change without notice**

**Contact:**

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